

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDY COZELL MONTGOMERY,
Plaintiff,

-v-

Case No. 08-10004
Honorable John Corbett O'Meara

UNITED STATES OF AMERICA,
Defendant.

_____ /

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

Before the Court is Defendant's Motion to Dismiss, filed on May 12, 2008. Plaintiff does not oppose granting the motion. Pursuant to Local Rule 7.1(e)(2), the Court rules on the papers submitted.

Plaintiff's complaint is brought pro se, pursuant to the Federal Tort Claims Act (FTCA). The action alleges that the Federal Bureau of Investigation has harassed and tormented him since 1998. The action consists of state law claims such as gross negligence and intentional infliction of emotional distress. Under the FTCA, the United States has consented to be sued for certain state law torts. A condition for doing is that prior to filing suit, the claimant must present an administrative claim to the proper agency, and that claim must be denied by the agency. 28 U.S.C. § 2675(a); Rogers v. United States, 675 F.2d 123, 124 (6th Cir. 1982).

Plaintiff does not allege that he filed an administrative tort claim prior to this lawsuit, nor is there any record that one was filed. See Altman v. Connally, 456 F.2d 1114, 1115-16 (2nd Cir. 1972)(complaint seeking recovery from United States for state law claims should be dismissed if it fails to include allegations that Plaintiff complied with requirement to exhaust administrative remedies); Juide v. City of Ann Arbor, 839 F.Supp. 497, 506-08 (E.D. Mich. 1993).

CONCLUSION

IT IS HEREBY ORDERED that Defendant's motion to dismiss is GRANTED.

s/John Corbett O'Meara
United States District Judge

Date: August 12, 2008

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, August 12, 2008, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager